

MEMO ENDORSED**Kennedys**

Our ref 1101645

Via ECF

Hon. Katherine Polk Failla
 United States District Court
 Southern District of New York
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 September 19, 2022

Re: *Crysknife Capital v. Liberty Specialty Markets, et al.*, Docket No.: 1:22-cv-07912-KPF – Related Case Transfer Request

Dear Judge Polk Failla:

This firm represents defendants Liberty Specialty Markets and Certain Underwriters at Lloyd's ("Defendants") in the above-referenced action (the "Crysknife Action"). Pursuant to Rule 13(b)(3) of the Rules for the Division of Business Among District Judges, Defendants respectfully request that the Crysknife Action be transferred to Judge Lewis J. Liman for all further proceedings.

This insurance coverage dispute is closely intertwined with a matter previously adjudicated by Judge Liman: *KLS Diversified Master Fund, L.P. v. McDevitt*, Case No.: 1:19-cv-03774-LJL-DCF (the "KLS Action").¹ The plaintiff here, Crysknife Capital, is the assignee of the plaintiff in the KLS Action and seeks to recover insurance proceeds that Defendants allegedly owe to the defendant in the KLS Action (Sean McDevitt) as a result of the KLS Action. (Crysknife Action Dkt. 1 at ¶¶1-16). Judge Liman has previously considered the terms of the specific insurance policy at issue here (see KLS Action Dkt. 115 and Crysknife Action Dkt. 1-1), and issued

¹ Crysknife Capital noted on its cover sheet that the KLS Action is a related case, but did not file a Related Case Statement.

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a ruling addressing Mr. McDevitt's rights under that policy. (KLS Action Dkt. 128 (also filed as Crysknife Action Dkt. 1-14)).

The Crysknife Action attaches Judge Liman's summary judgment ruling and final judgment as exhibits (Crysknife Action Dkt. 1-2 & 1-5) and is based on specific allegations about the meaning of Judge Liman's summary judgment decision. (Crysknife Action Dkt. 1 at ¶¶5, 7, 31, 53, 55, 56, 59, 62, 72). Thus, this present matter rests on an insurance policy that Judge Liman has already reviewed in connection with the parties' dispute as well as several rulings that Judge Liman issued in that prior related case.

Given Judge Liman's familiarity with the underlying facts, the insurance policy, and his own summary judgment decision, reassigning this case to him would promote judicial economy and reduce any "duplication of effort and expense" on the part of the Court. See Rule 13(a)(1), Rules for the Division of Business Among District Judges.

Accordingly, Defendants respectfully request that the Court find that the KLS Action and the Crysknife Action are related, and refer this matter to Judge Liman with a request that he accept the reassignment of this matter. See Rule 13(b)(3), Rules for the Division of Business Among District Judges.

Respectfully submitted,



William J. Brennan
Partner
for Kennedys

cc: *All Counsel of Record Appearing (via ECF)*

Application DENIED. Civil cases are presumptively not related unless both are pending before the Court or the earlier case is on appeal. SDNY Rules for the Division of Business Among District Judges, Rule 13(a)(2)(B). The KLS Action (No. 19-cv-3774) is neither pending nor on appeal; the appeal terminated on August 3, 2022, upon issuance of the mandate from the Second Circuit. Although the Court recognizes the factual overlap between the matters, the matters present sufficiently dissimilar substantive issues that Defendants have not overcome Rule 13(a)(2)(B)'s presumption against relatedness.

The Clerk of Court is directed to terminate the motion at docket entry #5.

SO ORDERED.

Dated: September 23, 2022
New York, New York



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HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE